

United States District Judge Ronald B. Leighton

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CARLOS EDUARDO LOPEZ  
HERNANDEZ, et al.,

Defendants.

NO. CR18-5579RBL

COMPLEX CASE MANAGEMENT  
ORDER

(Proposed)

This case came before the Court for a status conference and motion hearing on January 24, 2019.

Prior to the hearing, in an Order dated January 2, 2019, the Court appointed Russell M. Aoki as Coordinating Discovery Attorney for this case. *See* Dkt. 314.

At the hearing, the Court reviewed the United States' motion to continue this trial [Dkt. 289] to a date in December of 2019, and heard from individual defendants who objected to the continuance altogether and/or the proposed length of the continuance.

During the course of the hearing, the parties also discussed the volume and nature of the discovery involved; the complexities involved in managing this discovery, even

1 with the assistance of Mr. Aoki; and the complexities inherent in the number of  
2 defendants in this case.

3 At the close of the hearing, the Court found that the ends of justice and the  
4 complexity of this case outweighed the interests of the public in having this matter  
5 brought to trial sooner, overruled all defense objections, and continued the trial to  
6 September 23, 2019. *See* Dkts. 393, 394.

7 The Court also suggested the parties to meet and confer regarding a complex case  
8 schedule to manage this matter.

9 The parties have done so. With the exception of the dates by which the United  
10 States is to produce *Jencks* material, as discussed below, the parties hereby stipulate and  
11 agree that the Court should enter the following proposed Order.

12 The United States is proposing two different deadlines for provision of *Jencks*  
13 material to counsel. The first proposed deadline, for all *Jencks* material other than that  
14 for cooperating witnesses or confidential sources, is September 9, 2019 (two weeks prior  
15 to trial). The second proposed deadline, for *Jencks* material pertaining to cooperating  
16 witnesses or confidential sources, is September 16, 2019 (one week prior to trial).

17 Through counsel, defendants Lopez Hernandez, Heredia Castro, Green, Michael  
18 Scott, and Carrillo Salcedo, demand a disclosure of “all *Jencks*, *Giglio*, and CI discovery”  
19 no later than six weeks prior to trial. Through counsel, defendants Zelaya, Kristovich,  
20 and Suryan demand disclosure of “all *Jencks*/*Giglio* material, including cooperating  
21 witnesses,” of September 3, 2019 (three weeks prior to trial). None of these eight  
22 defendants provided legal authority supporting this earlier disclosure. Defendant Aviles  
23 Berrelleza, through counsel, had no objection to any of the deadlines as proposed.  
24 Counsel for Veja Cervantes, Cesar Loya Soto, Sierra Barrientos, Urias Moreno, Sarmiento  
25 Valenzuela, Baumgartner, Riggins, Esther Scott, Barajas, Gonzalez Jimenez, Puentes,  
26 and Werber did not respond to the undersigned regarding the proposed dates.  
27  
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The Court, having reviewed the record and files in this case, having considered the matters discussed at the January 24, 2019, status conference, and being otherwise fully advised, adopts the following schedule:

| Event  | Date            |
|--|-----------------|
| Government to continue to provide discovery under Fed. R. Crim. P. 16(a)(1)(A) – (F) and Local CrR 16(a)(1), including its continuing obligations set forth in Rule 16(c)  | Ongoing         |
| Government to supersede to add substantive counts  | March 21, 2019  |
| Deadline to file pretrial motions I (dismissal, discovery, Bill of Particulars, and the like)<br>Reponses to be filed by July 8, 2019; reply briefs, if any, to be filed by July 12, 2019; noting date of July 15, 2019  | June 24, 2019   |
| Defense to provide reciprocal discovery under Rule 16(b)(1)(A) – (B) and Local CrR 16(a)(2), with continuing obligation per rule 16(c); defense to provide notices of any defenses alleged under Fed. R. Crim. P. 12.1, 12.2 or 12.3   | June 24, 2019   |
| Pretrial motions II (motions based on review of discovery and defense investigation, including motions to suppress wiretap or searches, challenges to venue, substantive severance motions)<br>Responses due August 2, 2019; replies, if any, due August 9, 2019; Noting date of August 22, 2019 | July 22, 2019   |
| Parties to exchange expert discovery under Rules 16(a)(1)(G) and 16(b)(1)(C)   | August 12, 2019 |
| Government to identify FRE 404(b) evidence, if any   | August 19, 2019 |
| Deadline for Government to supersede to consolidate cases/add defendants for trial, if necessary <sup>1</sup>  | August 22, 2019 |

<sup>1</sup> There are a number of one- or two-defendant cases, all assigned to this Court, related to the instant matter. *See* CR18-310 (*United States v. Alcalá Contreras*), CR18-312 (*United States v. Alvarado Armenta*), CR18-313 (*United States v. Barber*), CR18-5606 (*United States v. Burns*), CR18-5593 (*United States v. Cammel*), CR18-5592 (*United States v. Case Management Order - 3*), *United States v. Lopez Hernandez, et al.*, CR18-5579RBL

| Event  | Date               |
|--|--------------------|
| Status Conference/Motions Hearing II, to include discussion of possible severance issues, if any   | August 22, 2019    |
| Parties to exchange draft transcripts of recorded calls/meetings for proposed use at trial.  | August 23, 2019    |
| Deadline for motions in limine (including, but not limited to, any challenges to proposed experts); motions re: 404(b) and inextricably intertwined evidence; motions to sever<br><br>Responses due September 5, 2019; replies due September 12, 2019; Noting date September 16, 2019. | August 29, 2019    |
| Parties to exchange objections/proposed revisions to transcripts as to form and content.   | September 3, 2019  |
| Parties to exchange all summary exhibits and underlying data under Fed. R. Evid. 1006; parties to provide rebuttal expert disclosures  | September 9, 2019  |
| Parties to exchange <i>Jencks</i> Act Fed. R. Crim. P. 26.2 and <i>Giglio</i> impeachment materials, including information covered by Fed. R. Evid. 806 materials <i>except</i> for government cooperating witnesses or confidential source witnesses.                                 | September 9, 2019  |
| Government to produce <i>Jencks</i> Act, Fed. R. Crim. P. 26.2 and <i>Giglio</i> impeachment materials, including information covered by Fed. R. Evid. 806 (if any) for government cooperating witnesses and/or confidential source witnesses (if any).                                | September 13, 2019 |
| Exhibit Lists, Witness Lists, Trial Briefs, Proposed Jury Instructions, Voir Dire and Verdict Forms due  | September 13, 2019 |

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*States v. Djordjevic*), CR18-311 (*United States v. Gamez Cervantes*), CR18-5607 (*United States v. Gregory*), CR18-5591 (*United States v. Hubly*), CR18-5590 (*United States v. Hynek*), CR 18-304 (*United States v. Joslyn*), CR18-309 (*United States v. Mares Garcia*), CR18-5589 (*United States v. Mendiola*), CR18-5594 (*United States v. Nemeyer*), CR18-308 (*United States v. Ordorica-Garcia*), CR18-5595 (*United States v. Rodriguez Jaime*), and CR18-5605 (*United States v. Wilson*).

| Event   | Date                             |
|---|----------------------------------|
| Pretrial Conference, including hearings on motions in limine (if necessary) | September 16, 2019               |
| File proposed trial exhibits (General Order 01-18) and commence trial       | September 23, 2019, at 9:00 a.m. |

Modifications to the deadlines set forth in this order may be made by the Court based on changing circumstances or for other good cause shown.

DATED this \_\_\_\_\_ day of February, 2019.

\_\_\_\_\_  
 Ronald B. Leighton  
 United States District Judge

Presented by:

BRIAN T. MORAN  
 United States Attorney

/s/ Marci L. Ellsworth  
 MARCI L. ELLSWORTH  
 Assistant United States Attorney